

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

TODD REED,

Plaintiff,

v.

No. 1:23-cv-00589-LF

NEW MEXICO SPORTS AND WELLNESS,

Defendant.

**ORDER TO SHOW CAUSE AND
TO FILE A THIRD AMENDED COMPLAINT**

Plaintiff, who is proceeding *pro se*, filed a 39-page Complaint with a four-page Affidavit in Support of Complaint. *See* Complaint, Doc. 1, filed July 13, 2023. After notifying Plaintiff that the Complaint contains many allegations that are not necessary to state a claim, the Court ordered Plaintiff to file an amended complaint. *See* Doc. 6 at 4, filed July 14, 2023.

After Plaintiff filed an Amended Complaint, Doc. 7, filed August 4, 2023, the Court notified Plaintiff that:

- (i) The 39-page Amended Complaint, which contains 245 paragraphs and has a four-page affidavit attached, is not a "short and plain statement" under Rule 8;
- (ii) The Court has an affirmative duty to ensure that this case is resolved not only fairly, but also without undue cost or delay and that Plaintiff shares that responsibility;
- (iii) Many of the allegations in the Amended Complaint are not necessary to a claim and will cause Defendant and the Court to needlessly expend valuable resources; and

(iii) Failure to comply with Court Orders and the Federal and Local Rules of Civil Procedure may interfere with the judicial process and may result in monetary and non-monetary sanctions including dismissal of this case.

See Doc. 9, filed August 9, 2023. The Court ordered Plaintiff to file another amended complaint which does not exceed 25 pages.

Plaintiff filed a 40-page Second Amended Complaint containing 245 paragraphs with a four-page affidavit attached. *See Doc. 10, filed August 31, 2023.* Plaintiff did not object to the Court's Order to file another amended complaint not exceeding 25 pages and did not file a motion seeking leave to file a second amended complaint exceeding 25 pages. Several of the allegations in the Second Amended Complaint are not necessary to state a claim. *See, for example,* Second Amended Complaint ¶¶ 8-12, 44-5, 55-56, 58-59, 66-68, 81, 83-84, 109-110, 116, 136, 145-146, 148, 152-155, 158-159, 161-162, 164, 207-216 (stating legal standards or making arguments).

Notice regarding Compliance with Orders and Rules

Failure to comply with Court Orders and the Federal and Local Rules of Civil Procedure interferes with the judicial process and may result in monetary and non-monetary sanctions including filing restrictions, dismissal of this case and imprisonment. *See Fed. R. Civ. P. 11(c); Olsen v. Mapes, 333 F.3d 1199, 1204 (10th Cir. 2003)* (“Pursuant to Federal Rule of Civil Procedure 41(b), a district court may dismiss an action with prejudice if the plaintiff fails to comply with [the Federal Rules of Civil Procedure] or any order of court”); 18 U.S.C. § 401(3) (“A court of the United States shall have power to punish by fine or imprisonment, or both, at its discretion, such contempt of its authority . . . as . . . Disobedience or resistance to its lawful writ, process, order, rule, decree, or command”).

IT IS ORDERED that, within 14 days of entry of this Order, Plaintiff shall: (i) show cause why the Court should not dismiss this case for Plaintiff's failure to file a second amended complaint not exceeding 25 pages; and (ii) file a third amended complaint not exceeding 25 pages. Failure to timely show cause and to file a third amended complaint may result in dismissal of this case.



UNITED STATES MAGISTRATE JUDGE